

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 5/26/2021

----- X  
:  
UNITED STATES OF AMERICA, :  
:  
:  
-v- :  
:  
:  
ONTONIEL ROSARIO BURGOS :  
:  
:  
Defendant. :  
:  
:  
----- X

1:19-cr-306-GHW

ORDER

GREGORY H. WOODS, United States District Judge:

On May 24, 2021, the Court received a request from Mr. Burgos requesting that the Court extend his surrender date (the “May 24 Application”). Despite an emailed commitment by counsel for Mr. Burgos to docket that request in redacted form “promptly,” it has not yet been docketed. The Court observes that the letter making the request is dated November 2, 2020, notwithstanding the fact that it was transmitted to the Court on May 24, 2021 and relates to matters that took place after November 2, 2020. The Court has elected to wait no longer for the redacted letter to be filed before responding to the request given that it is time sensitive.

On March 19, 2021, the Court granted the defendant’s request to extend the date for his surrender to June 1, 2021. Dkt. No. 128. The defendant had requested that his surrender date be extended until May 15, 2021, so that he could be vaccinated before reporting to prison. The Court granted the defendant more time than he had requested in order to give him ample time to be vaccinated before the extended surrender date, and noted that Mr. Burgos was and had been eligible for vaccination for a substantial period of time. The Court wrote that “Mr. Burgos should not expect further extensions of time.” *Id.*

Mr. Burgos’ May 24 Application states that he has a second vaccination appointment

scheduled for June 21, 2021. As a result, he asks that he be granted leave to extend his surrender date to July 7, 2021, shortly after the July 4 holiday weekend. Assuming a three week lag between his first dose and his second, Mr. Burgos did not schedule his first dose to be administered until the very end of May or early June—around the date of his previously ordered surrender date, and nearly two and a half months after his previous request for an adjournment of his surrender date. The May 24 Application provides no explanation for Mr. Burgos’ failure to schedule an earlier vaccination appointment. The lack of any explanation for Mr. Burgos’ delay in scheduling his vaccine appointment raises the prospect that Mr. Burgos intentionally elected to defer his vaccination in order to support a further application to extend his surrender date, notwithstanding the Court’s instruction that no further extensions would be granted.


Nonetheless, the Court is again granting the defendant’s request to adjourn his surrender date. It is extended to July 7, 2021. No further extensions will be granted. Mr. Burgos must surrender to begin his term of incarceration on that date.

Mr. Burgos’ May 24 Application also requests that the Court grant him compassionate release. Mr. Burgos makes the application before he has surrendered to serve any portion of his term of imprisonment. The Court requests the views of the United States regarding whether Mr. Burgos has exhausted the statutory precondition to bring such an application as well as its views regarding the merits of the application. The Government’s response is due no later than June 21, 2021. The pendency of his application for compassionate release does not relieve Mr. Burgos of his obligation to surrender to begin his term of incarceration as ordered by the Court.

The defendant has not shown sufficient justification for the filing of his application and supporting documents under seal in their entirety. The Court will file them on the docket in unredacted form on May 28, 2021 if counsel for Mr. Burgos has not filed redacted versions by that date.

SO ORDERED.

Dated: May 26, 2021  
New York, New York

  
\_\_\_\_\_  
GREGORY H. WOODS  
United States District Judge